
5.4 - Cultural Resources

5.4.1 - Introduction

This section describes the existing cultural resources setting and potential effects from project implementation on the site and its surrounding area. Descriptions and analysis in this section are based on information contained in the Phase I Cultural Resources Assessment, Significance Evaluations and Paleontological Records Review for the Marina Park project prepared in October 2008 by Michael Brandman Associates (MBA) and included in this EIR as **Appendix E, Cultural Resources Assessment**.

5.4.2 - Regulatory Setting

The regulatory setting for cultural resources includes laws and regulations covering historic and architectural resources, ethnographic resources, and paleontological resources. This section summarizes the laws and regulations that could apply to the Marina Park project.

National Historic Preservation Act (NHPA). The NHPA establishes national policy for protecting significant cultural resources that are defined as “historic properties” under 36 CFR 60.4. NHPA Section 106 (36 CFR §800) requires that federal agencies (in the case of the Marina Park project, the United States Army Corps of Engineers (USACE)) consider and evaluate the effect that federal projects may have on historic properties under their jurisdiction. Only historic properties are potentially subject to adverse effects under a federal action; archaeological sites and architectural structures that are not historic properties are categorically considered not significant. The criteria for designating an archaeological site or an architectural structure as historic is defined in the NHPA implementing regulations (36 CFR §60.4). These criteria state that generally a resource must be at least 50 years old, and meet a number of other criteria (properties less than 50 years of age may be eligible for listing if found to be exceptionally important). If a particular resource meets one of these criteria, it is considered as an eligible “historic property” for the National Register of Historic Places (NRHP) listing.

American Indian Religious Freedom Act of 1978 (AIRFA). AIRFA (42 USC §§ 1996-1996a) requires that locations identified as central to Native American religious practice be protected.

Native American Graves Protection and Repatriation Act of 1990 (NAGPRA) (25 USC §§ 3001-3013). NAGPRA requires that prehistoric human remains and burial-related artifacts of individuals recovered during ground disturbances be provided to those contemporary Native Americans who are recognized as descendants.

California Environmental Quality Act (CEQA). The CEQA Guidelines Section 15064.5(a.3) and PRC Section 21084.1 defines “historic resources,” as “[a]ny object, building, structure, site, area, place, record, or manuscript which a lead agency determines to be historically significant” with the clarification that, “[g]enerally, a resource shall be considered by the lead agency to be “historically significant” if the resource meets the criteria for listing on the California Register of Historical

Resources.” CEQA Guidelines Section 15064.5(b) defines a significant impact on historic resources as actions that may demolish or substantially alter the resource or its immediate surroundings to the extent that the features that make it historically significant are materially impaired. CEQA also provides guidance on the consideration of archeological resources (CEQA Guidelines Sections 15064.5 and 15126.4).

California Health and Safety Code (Section 7050.5) and Public Resources Code (Sections 5097.94 and 5097.98) govern the disposition of Native American burials, which is within the jurisdiction of the Native American Heritage Commission (NAHC).

Public Resources Code. Section 5097.5 prohibits excavation or removal of any “vertebrate paleontological site or historical feature, situated on public lands, except with the express permission of the public agency having jurisdiction over such lands.” Section 30244 requires reasonable mitigation of adverse impacts to paleontological resources from development on public land.

5.4.3 - Existing Conditions

The project site and surrounding areas are generally flat, with elevations of between 5 to 10 feet above mean sea level. The northern portion of the project site consists of a public sand beach known as Mother’s Beach. The remainder of the project site includes areas paved with asphalt and consisting of mobile homes, community buildings, commercial properties, and tennis courts; and areas of lawns and ornamental vegetation within park space.

The original ground surface and soils are not observable within the project area. Previous geologic mapping indicates that the site lies on top of deposits of young Quaternary-era alluvium derived as either fluvial deposits associated with Newport Bay or as beach sands from Newport Beach. These deposits may overlie older Quaternary terrace deposits at an unknown depth.

Prehistoric Archaeology

The pre-history of southern California is divided by anthropologists into four major periods: Early, Millingstone, Intermediate, and Late Prehistoric. All but the end of the Late Prehistoric are known only from artifacts and archeological sites.

Early Period (before 6000 B.C.). Artifacts and cultural evidence from the first human presence in California, near the end of the last glaciation, appear to represent a big-game hunting tradition. Very few sites from this Early Period exist, especially in inland areas. Most sites that have been excavated and dated suggest short-term occupation, and are generally found in caves and around lakes that existed then. Millingstones and dart points are not part of the Early Period tool assemblage.

Millingstone Period (6000 to 3000 B.C.). The onset of the Millingstone Period appears to correspond with an interval of warm and dry weather (Wallace 1978). Artifact assemblages begin to reflect an emphasis on plant foods and foraging subsistence systems, and sites are occupied for a greater duration than Early Period sites.

Although numerous Millingstone sites have been identified in Orange County, few are actually dated. The best understood of these is CA-ORA-64, located near Newport Bay, which has been radiometrically dated to about 6000 B.C. (Breece et al. 1988). This site is located outside the 1-mile search radius of the project area, but is the nearest to the project site. Research at this site suggests a settlement-subsistence system reflecting a semi-sedentary lifestyle. Generally, the Millingstone assemblage in the Los Angeles basin is typified by large and heavy deep-basin metates, wedge-shaped manos, and large choppers and scrapers. Flaked lithic tools are slightly larger and cruder than in later periods, and cogstones begin to appear.

Intermediate Period (3000 B.C. to A.D. 500). This period is interpreted as one of slow technological transition, presumably related to the slowly drying and warming climate. Site artifact assemblages retain many attributes of the Millingstone Period, and are difficult to distinguish from earlier sites in the absence of radiometric dates. The reduced number of large projectile points combined with the presence of mortars and pestles suggest that the indigenous populations may have preferred harvesting, processing, and consuming acorns and other seeds over hunting. Due to a general lack of data, neither the settlement and subsistence systems nor the cultural evolution of this period are well understood. It has been proposed by some researchers that group sedentarism increased with the exploitation of storable, high-yield plant food resources such as acorns. The duration and intensity of occupation at base camps increased during this period, especially in the later part of the period. Generally, the Intermediate Period artifact assemblage in the Los Angeles basin is vague, including elements of both the Late Prehistoric and the Millingstone periods

Late Prehistoric Period (A.D. 500 to A.D. 1769). Extending to Spanish contact, the Late Prehistoric Period reflects increased sophistication and diversity in technology. Village sites are common and artifact assemblages characteristically contain small projectile or dart points, which imply the use of the bow and arrow. In addition, assemblages include steatite bowls, asphaltum artifacts, grave goods, and elaborate shell ornaments. Use of bedrock milling stations is purported to have been widespread during this period, as it was in the previous period. Increased hunting efficiency and widespread exploitation of acorns provided reliable and storable food resources. Pottery, previously traded into the area, is made locally during the latest stage of this Period and is of simple construction. Cameron (1999) names several village sites in inland Orange County that are located within Gabrielino territory.

Native American History

History, that is, a written record, began in the project area with the arrival of Spanish explorers and the establishment of missions and outposts during the eighteenth century. The project area is situated within an area that has been ethnographically mapped as the Gabrieliño traditional-use area. The Gabrieliño tribal territory extended north from Aliso Creek to just beyond Topanga Canyon along the Pacific Coast, and inland to the City of San Bernardino (Bean and Smith 1978). Their territory would have included portions of the Santa Ana River and several islands, such as Catalina. It is likely that these tribal boundaries were fluid and allowed for contact, trade, and the diffusion of ideas between

neighboring groups. The Gabrieliño spoke a language that belongs to a subfamily of the Uto-Aztecan language family. The total Gabrieliño population in about 1770 AD was roughly 5,000 persons, based on an estimate of 100 small villages with approximately 50 to 200 people per village. The early ethnographers viewed the Gabrieliño as a chief-oriented society of semi-sedentary hunter-gatherers. Influenced by coastal and interior environmental settings, their material culture was quite elaborate and consisted of well-made wood, bone, stone, and shell items. At the time of Spanish contact, traditional Gabrieliño society began to fragment as a result of foreign diseases and the mass removal of local Indian groups to Mission San Gabriel and Mission San Juan Capistrano. By 1800, most traditional Gabrieliños had either been killed or subjugated by the Spanish.

Recent History

The City of Newport Beach is located on land that was originally occupied by Native Americans and then by Spanish settlers, Mexican ranchers, and American entrepreneurs. By 1850, California had become a state, and Americans began to change the character of California with ranches, orchards, and new cities. In the mid-1800s the state of California sold several of the small islands and peninsula areas for \$1 an acre, leading to Harbor, Balboa, and Lido Islands forming the foundation for the eventual development of the City of Newport Beach. In 1870, the river steamer *Vaquero* entered the upper Newport Bay, bringing attention to the bay area. In 1888, James and Robert McFadden and their business associate, James Irvine, moved their shipping business from the inner shores of Newport Bay to the deeper waters of the oceanfront area and to construct a large pier on the sand spit that would become the Balboa Peninsula. The McFadden wharf soon became the largest business in the region, shipping agricultural products and manufactured goods out from the beach areas. The growth of the area was heightened by the arrival in 1905 of the Pacific Electric Railway Company, which attracted new residents, commuters, and tourists. Small hotels and cottages along the beaches developed, and villages such as West Newport, East Newport, Bay Island, and Balboa Island began to dot the beaches and peninsula areas.

In 1906, the City of Newport Beach was incorporated by joining these small communities, and in 1924 Corona Del Mar was annexed officially. In 1926, the Pacific Coast Highway was built, and in 1936 the North Harbor was dedicated. During the 1940s, the Newport Beach area became a vital hub for warships and defense industries. In the 1950s, the Santa Ana Freeway, Interstate 5, was built, dramatically increasing the growth of the area. By the 1970s, rapid urbanization with new businesses, residential growth, and tourism had changed the area to its current character.

Historical and Cultural Resources

Records Search

A historical resource records search was conducted at the South Central Coastal Information Center (SCCIC), which is located at California State University, Fullerton, to determine the existence of previously documented cultural resources in the City of Newport Beach and County of Orange. The primary purpose of the search was to determine what historical resources have been recorded in the vicinity of or within the project area, and whether such resources will be or could be impacted by

development. This records search included reviews of archival maps and examinations of current inventories of the relevant national, state, and local historical organizations and agencies. The details of the search are described in **Appendix E**.

Review of early 20th Century topographic maps revealed neither structures nor any other development within the project area boundaries. The maps do depict the intersection of two Southern Pacific Railroad (SPRR) branch lines to the west-northwest of the project area, one of which continues southerly to Newport Beach proper, within 0.25 miles of the project area. These maps also depict numerous structures near the SPRR branches, all of which appear to have been located south of Balboa Boulevard.

A total of 15 previous studies have been conducted within a 1-mile radius of the project site, although few near it; the majority of those studies were completed along Pacific Coast Highway and State Route 55, landward of the Balboa Peninsula. There are no known cultural resources located within the project site boundaries, but nine cultural resources are known within the 1-mile search radius, including four prehistoric-age and five historic-age resources (**Table 5.4-1**). Two of the resources are California Historical Landmarks, one is an NRHP-listed property, and one resource is considered a historical landmark by the Newport Beach Historical Society but is not recognized by the City of Newport Beach as a landmark building.

Field Survey

The project site and immediate surroundings were surveyed by MBA on July 11, 2008. In this survey, the paved and park portions of the project area were walked from east to west, a technique indicated by the negligible amount of original ground surface visible. No prehistoric-age archaeological resources were detected, but several historic-age structures and structure complexes were observed. Those resources, which were recorded on DPR 523 Forms and evaluated for significance (see Appendix E), were: the American Legion Post 291, the Marina Park Mobile Home Park, the 19th Street restroom, Las Arenas Park, the Southern California Edison Property, and the Bayshores Peninsula Hotel. None of the resources was found to be eligible for inclusion in the National Register of Historic Places or the California Register of Historic Resources.

Table 5.4-1: Previously Recorded Cultural Resources

Site Name	Type	~1-mile radius	~0.5-mile radius	0.25-mile radius	On Site?
CA-Ora-59	Prehistoric age – the traces of a “camp site” recorded in 1912 as a mound of shell.	●	—	—	No
CA-Ora-60	Prehistoric age – the traces of a “camp site” recorded in 1912 as a scatter of clam, oyster, and univalve shell.	●	—	—	No

Site Name	Type	~1-mile radius	~0.5-mile radius	0.25-mile radius	On Site?
CA-Ora-61	Prehistoric age – the traces of a “camp site” recorded in 1912 as a scatter of shell. The presence of a small, wood-frame house was noted at the site, and the prehistoric age of the shell scatter was considered potentially suspect by the original recorder as a result.	●	—	—	No
CA-Ora-62	Prehistoric age – the traces of a “camp site” recorded in 1912. Oral tradition (1912) noted the presence of numerous skeletons, mortars, pestles, and other artifacts detected at this location.	●	—	—	No
30-176654	Historic age – the Our Lady Mount Carmel church built in 1951. The recorders note that the structure does not appear to be eligible for inclusion in the NRHP. (NR-6Y)	—	—	●	No
30-179867	Historic age – the South Coast Shipyard, three groups of buildings built at various dates. The recorder/ evaluator notes that none of the individual buildings appears to be eligible for listing in the CR. However, the grouping of buildings are referenced as a historic district and are considered eligible for listing at the local level. The South Coast Shipyard is recognized as a historical landmark by the Newport Beach Historical Society but is not recognized by the City of Newport Beach as a landmark building.	—	—	●	No
30-162261/ CHL 198	Historic age – the Old Landing site, where the area was named Newport by James Irvine, Benjamin Flint, James McFadden, and Robert McFadden in 1870. This is also the site of a shipping service run by the McFaddens in the 1870s and 1880s. (NR-7L)	●	—	—	No
30-162258/ CHL 794	Historic age – The site of the McFadden Wharf, originally constructed in 1888 by the McFadden brothers. (NR-1CL)	—	—	●	No
30-158585/ NR 74000545	Historic age – the Lovell Beach House, built in 1926. (NR-1S)	—	—	●	No
Source: Michael Brandman Associates 2008.					

Paleontological Resources

A paleontological records check was conducted in 2008 through the Vertebrate Paleontology Section at the Natural History Museum of Los Angeles (see **Appendix E** for details) in order to determine the potential for significant paleontological resources to be encountered in the project area. The paleontological review showed that the entire project area is situated upon surface deposits of young Quaternary-era alluvium derived as either fluvial deposits associated with Newport Bay or as beach sands from nearby Newport Beach. There are no known fossil vertebrate localities nearby from such deposits, and it is unlikely that such deposits would contain significant vertebrate fossils. However,

these deposits may overlie older Quaternary terrace deposits at an unknown depth. These older Quaternary terrace deposits have been known to yield fossil resources within the region; for example, locality LACM 6370 produced a fossil specimen of the extinct horse *Equus* from older Quaternary terrace deposits.

5.4.4 - Thresholds of Significance

According to the CEQA Guidelines' Appendix G Environmental Checklist, the following questions are analyzed and evaluated to determine whether impacts to cultural resources are significant environmental effects. Would the project:

- a.) Cause a substantial adverse change in the significance of an historical resource as defined in §15064.5?
- b.) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?
- c.) Directly or indirectly destroy a unique paleontological resource or site or a unique geologic feature?
- d.) Disturb any human remains, including those interred outside of formal cemeteries?

5.4.5 - Project Impact Analysis and Mitigation Measures

This section discusses potential impacts associated with the proposed project and provides mitigation measures where necessary.

Historic Resource

5.4-A: The project would not cause a substantial adverse change in the significance of an historical resource as defined in §15064.5.

Project-Specific Analysis

The records search revealed five historic-age resources near the site (**Table 5.4-1**) and the field survey found an additional seven potentially historic resources on or adjacent to the site. None of the five resources located outside the project site would be affected by project implementation. The seven potentially historic resources on and adjacent to the site did not meet the criteria for historical significance. Accordingly, implementation of the proposed project would result in no impacts on historical resources.

Cumulative

Since the proposed project would not impact historic resources, the proposed project would not contribute to potential cumulative historic impacts.

Mitigation Measures*Project Specific*

No mitigation measures are required.

Cumulative

No mitigation measures are required.

Level of Significance After Mitigation*Project Specific*

No impact.

Cumulative

No impact.

Archaeological and Cultural Resources

5.4-B: The project could cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5.

Project-Specific Analysis

The records search found four previously recorded archaeological resources in the general area (“camp sites,” discovered in 1912) but the field survey found no archaeological resources on or adjacent to the site. None of the four resources are located on the project site, and therefore none would be affected by project implementation.

Based upon the high level of urbanization present within the project area and the resultant ground disturbance, in conjunction with the environmental setting (i.e., the project area has been subject to historic-era disturbance from the movement of nearby ocean waters), there is a very low probability that significant, intact subsurface deposits would be uncovered during project construction. For this reason, archaeological monitoring during project construction is not recommended.

In general the California coast is culturally sensitive, however the Balboa Peninsula is a relatively new feature and the project area has been substantially disturbed by previous activities. Therefore the site is not considered particularly sensitive; project construction activities are not anticipated to result in cultural resource impacts to Native American groups; mitigation measure MM 5.4-B.1 would ensure that impacts remain less than significant.

Cumulative

As described above, construction activities associated with the project are not anticipated to result in potential significant impacts to resources of concern to Native American groups and to archeological resources; mitigation measure MM 5.4-B.1 would ensure that impacts would remain less than significant. Therefore, the project would not result in significant cumulative impacts.

Mitigation Measures*Project Specific*

- MM-5.4-B.1** If archeological artifacts are encountered during construction, the City of Newport Beach shall contact a Native American representative (as appropriate) and take measures to avoid the site, or shall record the site then cap or cover the site with a layer of soil before building over it. Alternatively, the City shall excavate the site under the supervision of a qualified archeologist in order to recover the scientifically consequential information relevant to the resource.

Cumulative

Implementation of Mitigation Measures MM 5.4-B.1 is required.

Level of Significance After Mitigation*Project Specific*

Less than significant.

Cumulative

Less than significant.

Paleontological Resource or Geologic Feature

5.4-C: The project could directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.

Project-Specific Analysis

The project area is situated upon geological deposits with low fossil-bearing potential, but these sediments may overlie more sensitive deposits that lie at an unknown depth. Based on the potential for finds within the older deposits, construction of the proposed project has a moderate potential to encounter paleontological resources in the subsurface of the project site. Therefore, potentially significant impacts to paleontological resources could result from construction activities.

Cumulative

The proposed project could contribute to potential significant cumulative impacts to paleontological resources.

Mitigation Measures*Project Specific*

- MM 5.4-C.1** During Phase 3 construction, a qualified paleontologist shall be retained to observe grading activities and conduct salvage excavation of paleontological resources as necessary. The paleontologist shall be present at the pre-grading conference, shall establish procedures for paleontological resources surveillance, and shall establish, in cooperation with the City, procedures for temporarily halting or redirecting work to permit the sampling, identification, and evaluation of the fossils as appropriate. If

additional or unexpected paleontological features are discovered, the paleontologist shall report such findings to the City Planning Department. If the paleontological resources are found to be significant, the paleontological observer shall determine appropriate actions, in cooperation with the City, for exploration and/or salvage. These actions, as well as final disposition of the resources, shall be subject to the approval of the Planning Director.

Cumulative

Implementation of Mitigation Measures MM 5.4-C.1 is required.

Level of Significance After Mitigation

Project Specific

Less than significant.

Cumulative

Less than significant.

Human Remains

5.4-D: The project would not disturb any human remains, including those interred outside of formal cemeteries.

Project-Specific Analysis

No human remains are known to be present on site, and because the project site has been previously graded it is very unlikely that any would be encountered. There is always the unlikely event that ground-disturbing activities during construction may uncover previously unknown buried human remains. Should this occur, Federal laws and standards apply, including the Native American Graves Protection and Repatriation Act (NAGPRA) and its regulations found in the Code of Federal Regulations at 43 CFR 10. In addition, California State Health and Safety Code § 7050.5 dictates that no further disturbance shall occur until the County Coroner has made the necessary findings as to origin and disposition.

Given that the discovery of unknown buried human remains would result in the need to comply with existing laws and regulations, the construction of the proposed project would result in less than significant impacts to human remains.

Cumulative

As described above, no remains are known to be present onsite and existing laws and regulations exist if unknown buried human remains are discovered. Therefore, the proposed project's potential contribution to cumulative impacts to human remains is considered less than cumulatively considerable.

Mitigation Measures

Project Specific

No mitigation measures are required.

Cumulative

No mitigation measures are required.

Level of Significance After Mitigation

Project Specific

Less than significant.

Cumulative

Less than significant.